

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SIEMENS WATER TECHNOLOGY §
CORP., §
Plaintiff, §
§
v. § CIVIL ACTION NO. H-11-3272
§
TRANS-UNITED, INC., §
Defendant. §

MEMORANDUM AND ORDER

Plaintiff Siemens Water Technology Corp. filed this lawsuit pursuant to the Carmack Amendment, 49 U.S.C. § 11707, seeking to recover for alleged damage to a Quench Separator Tower during shipment from Wisconsin to Houston. Plaintiff also seeks to recover its attorney's fees. Defendant Trans-United, Inc. filed a Motion to Dismiss Attorney's Fee Claim [Doc. # 8], to which Plaintiff neither filed a response in opposition nor requested additional time to do so. Pursuant to the Local Rules of the United States District Court for the Southern District of Texas, failure to respond to a motion is taken as a representation of no opposition. S.D. TEX. R. 7.3, 7.4.

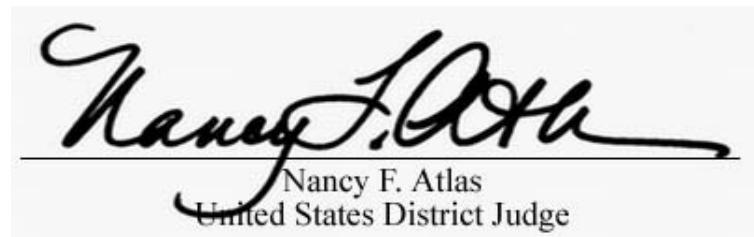
There is no provision in the Carmack Amendment that authorizes an award of attorney's fees, and the Carmack Amendment preempts any state law basis for the recovery of attorney's fees. *See Accura Sys., Inc. v. Watkins Motor Lines, Inc.*, 98 F.3d 874, 876 (5th Cir. 1996); *see also Hauck v. Bekins Van Lines, LLC*, 2010 WL

4705264, *3 (S.D. Tex. Nov. 12, 2010) (Rosenthal, J.); *Armadillo Glass, Inc. v. Emmegi U.S.A., Inc.*, 2010 WL 1435159, *6 (S.D. Tex. Apr. 7, 2010) (Harmon, J.).

As a result, it is hereby

ORDERED that Defendant's Motion to Dismiss Attorney's Fee Claim [Doc. # 8] is **GRANTED** and Plaintiff's claim for attorney's fees is **DISMISSED**.

SIGNED at Houston, Texas, this 21st day of **December, 2011**.



Nancy F. Atlas
Nancy F. Atlas
United States District Judge